

# Maryland Health Planning and Certificate of Need Program: Background

## *Balancing Access, Quality, and Cost*



**Briefing Presented to  
Certificate of Need Task Force**

**May 26, 2005**



MARYLAND  
HEALTH CARE  
COMMISSION

## Briefing Overview

- **Maryland CON Program**
  - Scope of the CON Program
  - Levels of Review
- **CON Program Statistics**
  - CON Decisions by Level of Review
  - Hospital Projects by Level of Review
  - Key Trends in Health Care Facility Projects
- **Maryland Health Planning Program**
  - Certificate of Need Review Criteria
  - Role of the State Health Plan
- **Evolution of the Maryland CON Program: Process and Coverage**
- **The Maryland CON Program Compared with Other States**
  - Overview
  - Capital Threshold

## What types of health care projects are reviewed under the Maryland CON program?

### ***A CON is required:***

- Before a new health care facility/service is built, developed, or established:
  - Hospitals
  - Nursing homes
  - Ambulatory surgical facilities (2 or more ORs)
  - Residential treatment centers
  - Intermediate care facilities (substance abuse/DDA)
  - Home health (Medicare-certified)
  - Hospice agencies
- For certain patient-care related capital expenditure projects (e.g., construction, renovation) that involve a health care facility.
  - Current capital expenditure threshold = \$1,650,000
- Before a new, highly specialized service is developed by a hospital:
  - Open Heart Surgery
  - Organ Transplant Surgery
  - Neonatal Intensive Care
  - Burn Care

## What types of health care projects are not reviewed under the Maryland CON program?

### ***A CON is not required for:***

- Hospital capital expenditures over threshold if no rate increase pledged
- Conversion of an existing hospital to a limited service hospital
- Closure of a hospital or medical service provided by a hospital
- Assisted living facilities
- Major medical equipment (e.g., CT scanners, linear accelerators, catheterization laboratories)
- Kidney dialysis centers
- Capital expenditures to acquire health care facilities
- Waiver beds for non-hospital facilities



## Levels of Review: Maryland Certificate of Need Program

Level of Review	Initiated By	Type of Projects Covered	Decision By	Interested Parties Permitted	Time Frame
Determination of Non-Coverage	Letter Requesting Determination of Coverage (COMAR 10.24.01.14B)	<ul style="list-style-type: none"><li>•Acquisitions</li><li>•Waiver Beds</li><li>•One OR Ambulatory Surgery Facilities</li><li>•Hospital Capital Projects Eligible for "Pledge" Not to Increase Rates</li></ul>	Executive Director	No	30 Days
Exemption from CON Review	Notice of Intent to Seek Exemption from CON Review (COMAR 10.24.01.04)	<ul style="list-style-type: none"><li>•Merger or consolidation of two or more hospitals or other health care facilities</li><li>•Closure of Hospitals in Jurisdictions with Fewer than 3 Hospitals</li></ul>	Commission  (With staff analysis and recommendation)	No	45 Days
CON Review	Letter of Intent Followed 60 Days Later by CON Application (Scheduled review or initiated by applicant)	<ul style="list-style-type: none"><li>•New health care facility</li><li>•Capital expenditures above threshold</li></ul>	Commission <ul style="list-style-type: none"><li>•With staff recommendation if uncontested</li><li>•Commissioner Reviewer if contested and/or comparative</li></ul>	Yes	90 Days  (150 Days if an Evidentiary Hearing is Held)

## CON Decisions by Level of Review, 2000-2004 and Estimated 2005

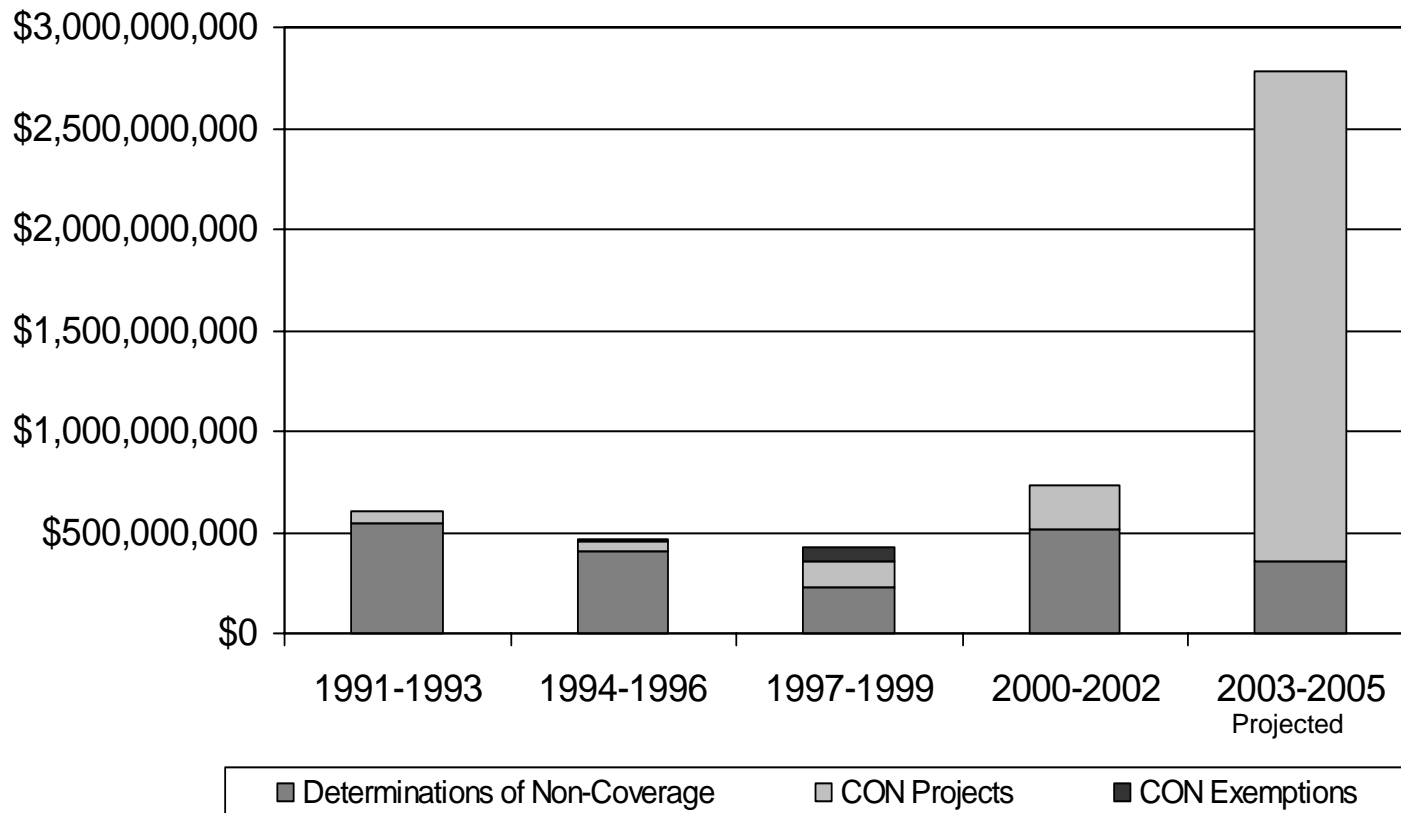
	Acquisition	Capital Expenditure	Change in Licensed Bed Capacity	Ambulatory Surgical Capacity	Waiver Beds	Other	CY Total Actions on Determinations of Non- Coverage	Commission Decisions	
								CON Approvals, Denials, Modifications	CON Exemptions
2000	10	13	37	24	17	17	118	11	2
2001	17	28	90	35	15	8	193	8	0
2002	26	29	40	38	7	16	156	18	3
2003	13	17	65	30	11	6	143	19	2
2004	14	28	66	37	5	11	161	16	1
2005 Est.								37	

Source: Maryland Health Care Commission Certificate of Need Database.

### Notes

- These figures include all responses to request for determination of whether Certificate of Need review is required for a proposed action by an existing, or a planned, health care facility, regardless of staff's response. The overwhelming number of requests for determination of CON coverage receive the response that no CON is required for the action or activity proposed. In a typical year, fewer than five proposed projects are found to require CON review.
- The categories above include:
  - the **acquisition** of an existing health care facility, which does not require CON review when the Commission receives a written notice at least thirty days before the proposed sale is completed, with the information required by regulation;
  - capital expenditures** proposed by health care facilities, which require CON review if they will exceed the capital threshold, unless the expenditure is proposed by a hospital that pledges not to seek increased rates related to the project over a minimal amount;
  - changes in licensed bed capacity** other than increases by the "waiver bed" rule, most commonly temporary decreases in licensed bed capacity in nursing homes;
  - establishing new ambulatory surgical operating rooms** in physician office settings;
  - waiver bed increases**, through the "10 beds or 10%, whichever is less" rule, or any other percentage, as applicable to different categories and sizes of health care facility; and
  - "**other**," which includes a wide variety of inquiries as to whether a certain kind of action or activity proposed by a health care facility requires Certificate of Need review.

## Cost of Acute General and Special Hospital Projects Approved/Reviewed Under the CON Program by Level of Review: Maryland, 1991-2005



Source: Maryland Health Care Commission (Data reported for 1991-2002 includes approved projects and modifications to previously approved projects for acute general and special hospitals, including psychiatric, rehabilitation, and pediatric hospitals. The data excludes projects denied, withdrawn, or relinquished. Data reported for 2003-2005 includes approved projects for 2003, 2004, and January-May 2005 and costs of projects currently under review or projected to be reviewed for June 2005-December 2005.)



# Key Trends in Health Care Facility Projects

## Acute Care Hospitals

### Emergency Departments

- Increased Number of Treatment Beds
- Observation/Admission Units

### Operating Rooms

- Increased Number of Operating Rooms
- Larger Operating Rooms

### Bed Capacity

- Increased Number of ICU and Medical-Surgical Beds
- Replacement Hospital Facilities
- Private Rooms

### New Services

- Rehabilitation
- Obstetrics

### Service Closures

- Subacute Care Units
- Psych Services
- Obstetrics

### Patient Safety

- Information Systems Technology (e.g., computerized physician order entry)

## Nursing Homes

### Bed Capacity

- Replacement Facilities
- Private Rooms
- Redevelopment of Off-Line Capacity

## Ambulatory Surgery Facilities

### Surgical Capacity

- Increased Number of Operating Rooms (One OR Facilities Adding a Second OR)
- Hospital-Affiliated FASF

## Specialized Health Care Services

### New Services

- Primary and Elective Angioplasty
- NICU





## **Certificate of Need Review Criteria COMAR 10.24.01.08G(3)(a)-(f)**

- State Health Plan standards, policies, and projections
- Need for the new facility or service: projected or demonstrated
- Availability of more cost-effective alternatives
- Viability of project: availability of financial and non-financial resources (community support and available staffing, other resources necessary to sustain project)
- Compliance with conditions of previous CONs
- Impact on existing providers

# Role of the State Health Plan

- Ensure rational, planned growth in capacity based on community need and benefit
- Review of projects based on objective measures of:
  - Quality
  - Geographic and financial access
  - Affordability
- Coordination of policy (OHCQ, Medicaid, HSCRC, Department of Aging)
- Public process



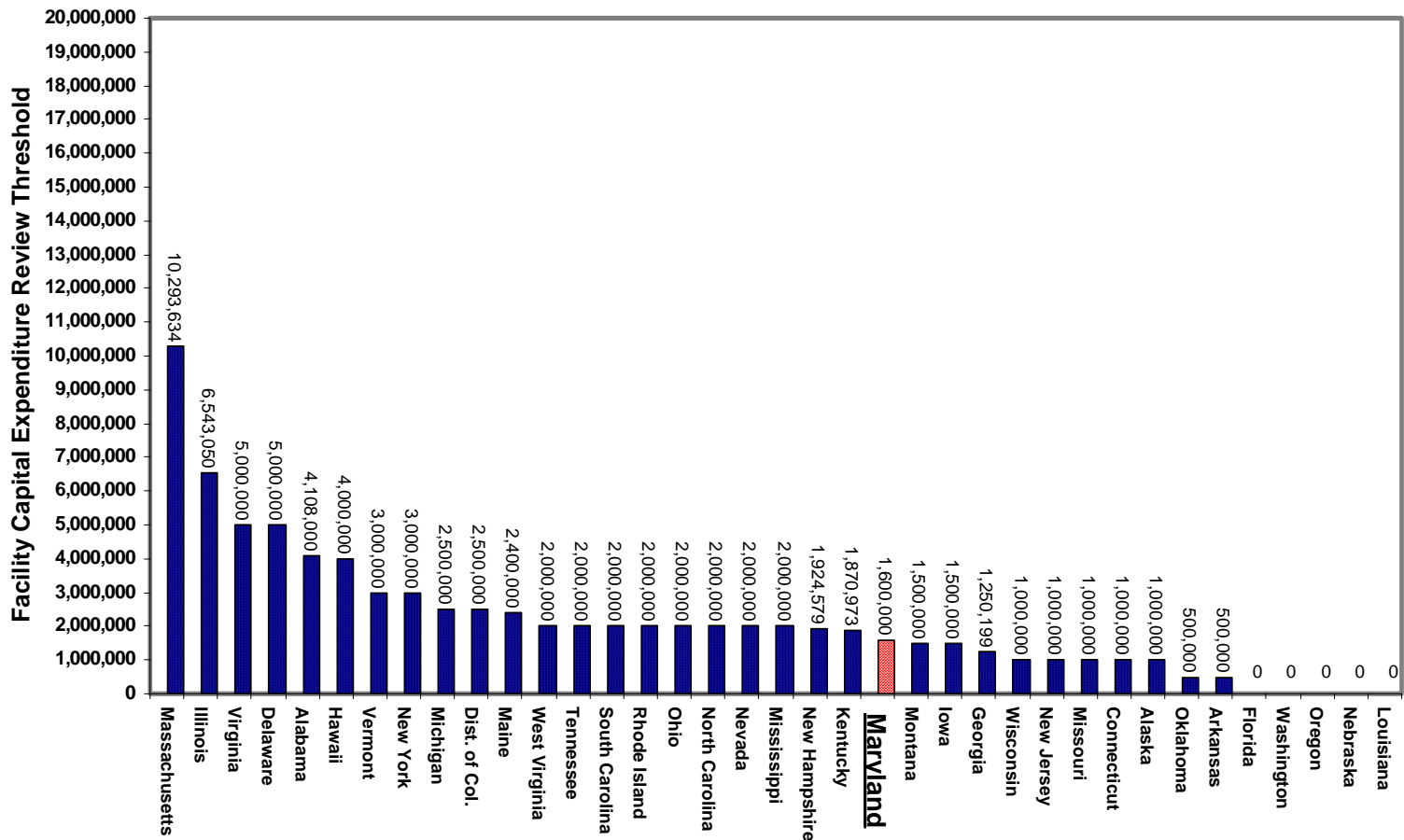
## Evolution of the CON Program: Major Changes in Process and Coverage

<b>1985</b>	<b>Health Care Cost Containment Legislation</b> <ul style="list-style-type: none"><li>•Deregulation of major medical equipment</li><li>•Establishes in statute the exemption from CON for certain projects</li></ul>
<b>1986</b>	<b>Changes in CON Regulation for Ambulatory Surgical Facilities</b>
<b>1988</b>	<b>Changes in CON Regulation for Hospital Capital Expenditures</b> <ul style="list-style-type: none"><li>•Deregulation of hospital capital expenditures provided no rate increase (“The Pledge”)</li><li>•Capital review threshold raised from \$600,000 to \$1,250,000</li><li>•CON required to establish OHS, organ transplant surgery, burn or NICU service</li></ul>
<b>1995</b>	<b>Health Care Reform Act of 1995</b> <ul style="list-style-type: none"><li>•Changes in CON regulation of ambulatory surgical facilities</li><li>•Changes in CON review process</li></ul>
<b>1999</b>	<b>Hospital Cost Containment and Capacity Act</b> <ul style="list-style-type: none"><li>•Changes in hospital closure rules</li><li>•Waiver beds eliminated for acute care hospitals</li><li>•Acute care hospital licensed beds = 140% ADC</li><li>•Spousal carve-out provision permits CCRC direct admission</li></ul>
<b>2000</b>	<b>Changes in CON Regulation of CCRCs</b> <ul style="list-style-type: none"><li>•CON-excluded beds at CCRC nursing homes raised from 20 to 24%</li><li>•Limited direct admissions to CCRC nursing homes permitted</li></ul>

## Comparative CON Program Profiles: United States and Maryland 2004

Characteristic	Maryland	Number of States
<b>CON Program</b>	Yes	37 of 51
<b>CON Coverage of Selected Services:</b>		
♦ Acute Care Hospitals	Yes	26
♦ Obstetric Services	Yes	16
♦ Nursing Homes	Yes	37
♦ Ambulatory Surgery Facility	Yes	26
♦ Psychiatric Services	Yes	27
♦ ICF-MR	Yes	26
♦ Substance Abuse	Yes	22
♦ Home Health Agency	Yes	19
♦ Hospice	Yes	18
♦ Burn Care	Yes	13
♦ Open Heart Surgery	Yes	26
♦ Organ Transplant	Yes	21
♦ Neonatal Intensive Care Unit	Yes	22
♦ Rehabilitation Services	Yes	26
♦ Residential Care Facility	No	5
♦ Cardiac Catheterization Lab	No	28
♦ CT Scanner	No	16
♦ Lithotripsy	No	19
♦ MRI Scanner	No	19
♦ PET Scanner	No	22
♦ Radiation Therapy	No	24
♦ Renal Dialysis	No	13

## State Certificate of Need Program Facility Capital Expenditure Review Thresholds 2004



Source: American Health Planning Association,  
2005

## **Distinctive Aspects of Maryland CON Program**

- **Planning based approach to regulation**
  - One the most extensive data collection and analysis support structures nationally
  - Consultation with health services providers
  - Use of waivers and pilot projects to study implications in dynamic, rapidly changing environment
- **Focus**
  - Major medical equipment excluded
  - Home and hospice services included
- **Unique approach to outpatient surgery**
- **Link to and work with HSCRC**